

# TRADEMARK ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Skyline Chili, Inc.		11/15/2010	CORPORATION: OHIO
RECEIVING PARTY DATA			
Name:	Fifth Third Bank, as Collateral Agent		
Street Address:	38 Fountain Square Plaza		
Internal Address:	MD 10AT63		
City:	Cincinnati		
State/Country:	OHIO		
Postal Code:	45263		
Entity Type:	Banking Corporation: OHIO		
PROPERTY NUMBERS Total: 16			
Property Type	Number	Word Mark	
Registration Number:	1221066	SKYLINE	
Registration Number:	1293403	SKYLINE CHILI	
Registration Number:	1362692	SKYLINE CHILI	
Registration Number:	2161133	FOOTLONG EXPRESS	
Registration Number:	2197258	SKYLINE CHILI EST.1949	
Registration Number:	2197268	SKYLINE CHILI	
Registration Number:	2365353	SKYLINE CHILI	
Registration Number:	2460522	SKYLINE CHILI EST.1949	
Registration Number:	2461768	IT'S SKYLINE TIME.	
Registration Number:	2461787	FEELING GOOD AND HUNGRY? IT'S SKYLINE TIME.	
Registration Number:	2911840	FRESH SELECTS	
Registration Number:	2939541	FOOTLONG EXPRESS	
Registration Number:	2959263	SKYLINE CHILI	

900176294

TRADEMARK  
 REEL: 004421 FRAME: 0363

CH \$415.00 1221066

Registration Number:	2969659	EXTREME WAY
Registration Number:	2987070	EXTREME CONEY
Serial Number:	85013374	WALKING 3 WAY

#### CORRESPONDENCE DATA

Fax Number: (202)533-9099

*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*

Phone: 202-467-8856

Email: behogue@vorys.com, iplaw@vorys.com, rsdonnell@vorys.com

Correspondent Name: Vorys, Sater, Seymour and Pease LLP

Address Line 1: 1909 K Street, NW -- 9th Floor

Address Line 2: Attn: Richard S. Donnell

Address Line 4: Washington, DISTRICT OF COLUMBIA 20006

ATTORNEY DOCKET NUMBER:	5252-723/0769/SKYLINE
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NAME OF SUBMITTER:	Richard S. Donnell
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Signature:	/richard s donnell/
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Date:	11/22/2010
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#### Total Attachments: 15

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## **TRADEMARK SECURITY AGREEMENT**

THIS TRADEMARK SECURITY AGREEMENT (this "Agreement"), dated as of November 15, 2010 (the "Effective Date"), made between **SKYLINE CHILI, INC.**, an Ohio corporation, having its chief executive office at 4180 Thunderbird Lane, Fairfield, Ohio 45014 ("Borrower"), and **FIFTH THIRD BANK**, an Ohio banking corporation, having an office at 38 Fountain Square Plaza, MD 10AT63, Cincinnati, Ohio 45263, as collateral agent (in such capacity and together with any successor collateral agent, "Collateral Agent"), for the benefit of Secured Creditors (as defined below), is as follows:

### WITNESSETH

WHEREAS, Borrower and Skyline Chili, LLC, an Ohio limited liability company ("Parent"), have entered into: (a) that certain Credit Agreement dated as of the Effective Date (as amended, restated, modified, supplemented, or replaced from time to time, the "Credit Agreement") with Fifth Third Bank, an Ohio banking corporation, in its capacity as Agent for the Lenders (in such capacity, "Agent") and the Lenders from time to time party thereto, and (b) that certain Note Agreement dated as of the Effective Date (as amended, restated, modified, supplemented, or replaced from time to time, the "Note Purchase Agreement") with the Purchasers named on the Purchaser Schedule attached thereto (together with any holder of a Note (as defined therein) from time to time, the "Noteholders");

WHEREAS, Collateral Agent, Agent, the Lenders, and the Noteholders (each a "Secured Creditor" and, collectively, the "Secured Creditors") have entered into an Intercreditor and Collateral Agency Agreement dated as of the Effective Date (as amended, restated, modified, supplemented, or replaced from time to time, the "Intercreditor Agreement"), pursuant to which the Secured Creditors have, among other things, (a) set forth the priorities for the application of proceeds with respect to the Trademark Collateral (as defined below) and certain payments with respect to the Secured Obligations (as defined below) and (b) appointed Fifth Third Bank as collateral agent; and

WHEREAS, the Obligations (as defined in each of the Credit Agreement and the Note Purchase Agreement) and the other Secured Obligations (as defined below) are to be secured pursuant to this Agreement;

NOW, THEREFORE, in consideration of the foregoing and other benefits accruing to Borrower, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby covenants and agrees with, and makes the following representations and warranties to the Collateral Agent, for the benefit of the Secured Creditors, as follows:

### **1. DEFINITIONS.**

**1.1 Certain Capitalized Terms.** Any capitalized term used, but not defined in this Agreement, will have the meaning given to it in the Intercreditor Agreement.

**1.2 Other Definitional Provisions; Construction.** Unless otherwise specified,

(i) As used in this Agreement, accounting terms relating to Borrower not defined in this Agreement have the respective meanings given to them in accordance with GAAP. References to the Uniform Commercial Code, or UCC, means as adopted in the each applicable jurisdiction, as amended or superseded from time to time. References to the "Ohio UCC" means the Uniform Commercial Code, as adopted in Ohio, as amended or superseded from time to time. The definition of any document or instrument includes all schedules, attachments and exhibits thereto and all renewals, extensions, supplements, restatements and amendments thereof. All Schedules attached to this Agreement are incorporated into, made and form an integral part of, this Agreement for all purposes. "Hereunder," "herein," "hereto," "this Agreement" and words of similar import refer to this entire document; "including" is used by way of illustration and not by way of limitation, unless the context clearly indicates the contrary; the singular includes the plural and conversely; and any action required to be taken by Borrower is to be taken promptly, unless the context clearly indicates the contrary.

(ii) All of the uncapitalized terms contained in this Agreement which are now or hereafter defined in the Ohio UCC will, unless the context expressly indicates otherwise, have the meanings provided for now or hereafter in the Ohio UCC as such definitions may be enlarged or expanded from time to time by amendment or judicial decision. As user herein:

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government or any agency or instrumentality thereof.

"material item of Trademark Collateral" means, collectively, the Trademark Collateral that is material to Borrower's business or the value of the Collateral, and shall include, without limitation, all of the Trademark Collateral that is comprised, in whole or in part, of marks, logos, or symbols using (or depicting) in any manner the word "Skyline" (alone or in combination with any other words, symbols or images).

"Liens" has the meaning given in the Credit Agreement.

"Loan Documents" has the meaning given in the Credit Agreement.

"Permitted Liens" means, collectively, those Liens that are permitted pursuant to both Section 8.8 of the Credit Agreement and paragraph 6I of the Note Purchase Agreement.

"Secured Obligations" means the "Senior Indebtedness", as defined in the Intercreditor Agreement.

"Transaction Documents" has the meaning given in the Note Purchase Agreement.

**2. GRANT OF SECURITY.** As security for the full, prompt and complete payment and performance of all of the Secured Obligations, Borrower hereby grants to Collateral Agent, for the benefit of the Secured Creditors, a continuing security interest in and to, and a Lien on, all of the

"Trademark Collateral". As used herein, "Trademark Collateral" means, collectively: (a) all of Borrower's right, title and interest in and to all of its now or in the future owned or existing trademarks, service marks, trademark or service mark registrations, trade names, and trademark or service mark applications (exclusive, for purposes only of this Agreement, of any Intent to Use Applications as defined below), including each mark, registration, and application listed on Schedule I attached hereto and made a part hereof (the property in this item (a) being collectively, the "Trademarks"); (b) all renewals of each of the Trademarks; (c) all income, royalties, damages and payments now and in the future due or payable under or with respect to any and all Trademarks, including damages and payments for past or future infringements of any and all Trademarks; (d) all rights to sue for past, present and future infringements of any and all Trademarks; (e) all rights corresponding to each of the Trademarks throughout the world; (f) all rights of Borrower as licensor or licensee under, and with respect to, trademarks, service marks, trade names, and trademark and service mark applications, including the licenses listed on Schedule I and the Trademark Licenses (as defined in Section 3(a)) (Borrower's rights as licensor or licensee sometimes referred to in this Agreement, collectively, as "Trademark License Rights") and (g) together in each case with the goodwill of Borrower's business connected with the use of, and symbolized by, the foregoing. Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement is intended to be, or may be construed to be, an assignment of any application to register any trademark or service mark based on any intent to use filed by, or on behalf of, Borrower ("Intent to Use Applications"), and any Intent to Use Applications are specifically excluded from the Trademark Collateral for purposes of this Agreement.

### **3. LICENSES:**

(a) Except for the Franchise Agreements (as defined in the Credit Agreement) and other licenses attendant to products and services provided by Borrower in the ordinary course of business consistent with past custom and practice, Borrower expressly represents, warrants, covenants and agrees that Borrower shall not license, as licensor, any Trademarks (a "Trademark License") included in the Trademark Collateral without the prior written consent of Collateral Agent, and each such Trademark License so granted shall be subject to the terms and conditions of this Agreement, including the termination provisions in Section 3(b) herein.

(b) Upon the occurrence of an Event of Default, Collateral Agent shall have the right, immediately or at any time thereafter, in its sole discretion in accordance with the Intercreditor Agreement, to deliver to Borrower and to each licensee under a Trademark License notice terminating the Trademark Licenses, whereupon (i) the Trademark Licenses will automatically and immediately terminate without any further notice or demand (which Borrower expressly waives); (ii) all rights and interests of the licensees in and to and under the Trademark Licenses will revert to Borrower; and (iii) all rights of the licensees in the Trademark Collateral will cease to exist and be void. If the Event of Default is cured to Collateral Agent's satisfaction or is waived in writing in accordance with the Credit Agreement and the Note Purchase Agreement, then, without any further action on the part of Collateral Agent, the Trademark Licenses will immediately revert with the licensees on the cessation of such Event of Default, subject to the terms of this Agreement.

### **4. REPRESENTATIONS AND WARRANTIES.** Borrower represents and warrants that:

(i) Borrower is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each item of the Trademark Collateral, free and clear of any Liens, charges and encumbrances including all pledges, assignments, releases and covenants by Borrower not to sue any other Person in respect of the Trademark Collateral, other than any Permitted Liens.

(ii) Set forth in Schedule I is a complete and accurate list of all the Trademarks and Trademark License Rights (other than Franchise Agreements) owned by Borrower or in which Borrower has any rights.

(iii) Each Trademark in Schedule I is subsisting and has not been adjudged invalid, unregistrable or unenforceable, in whole or in part, and each registered trademark and service mark and, to the best of Borrower's knowledge, each application for trademark and service mark registration is valid, registered or registrable and enforceable. Borrower has notified the Agent and the Noteholders in writing of all prior uses of any material item of the Trademark Collateral of which Borrower is aware which could lead to such item becoming invalid or unenforceable, including prior unauthorized uses by third parties and uses which were not supported by the goodwill of the business connected with such item.

(iv) Borrower has not granted any license, release, covenant not to sue, or non-assertion assurance to any Person with respect to any part of the Trademark Collateral except (a) pursuant to any Franchise Agreements to which Borrower is a party and (b) as otherwise disclosed in Schedule I.

(v) Reasonable and proper statutory notice has been used in connection with the use of each registered Trademark.

(vi) The Trademark License Rights are in full force and effect, and Borrower is not in default of any of the Trademark License Rights and, to Borrower's knowledge, no event has occurred which with notice or the passage of time, or both, might constitute a default by Borrower under the Trademark License Rights.

(vii) Except for the recording of this Agreement with the United States Patent and Trademark Office and the filing of UCC financing statements with the State of Ohio, no authorization, consent, approval or other action by, and no notice to or filing or recording with, any Governmental Authority is currently or is reasonably expected to be required either (a) for the grant by Borrower of the Liens granted hereby or for the execution, delivery or performance of this Agreement by Borrower, or (b) for the perfection of or the exercise by the Collateral Agent of its rights and remedies hereunder.

## **5. FURTHER ASSURANCES.**

**5.1 Required Borrower Actions.** Borrower will from time to time, at its expense, promptly execute and deliver all further instruments, documents, and agreements and take all further action, that may be necessary or desirable, or that the Collateral Agent may reasonably request, in order to (i) continue, perfect and protect the Liens granted or purported to be granted hereby or (ii) enable the Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to

any part of the Trademark Collateral. Without limiting the generality of the foregoing, Borrower will sign and file such financing statements and such other instruments or notices, as may be necessary or desirable, or as the Collateral Agent may reasonably request, in order to perfect and preserve the Liens granted or purported to be granted hereby.

**5.2 Financing Statements.** Borrower hereby authorizes the Collateral Agent to file one or more financing statements relative to all or any part of the Trademark Collateral without the signature of Borrower where permitted by law. A carbon, photographic or other reproduction of this Agreement or any financing statement covering any or all of the Trademark Collateral shall be sufficient as a financing statement where permitted by law.

**5.3 Further Information.** Borrower will furnish to the Collateral Agent from time to time statements and schedules further identifying and describing the Trademark Collateral and such other reports in connection with the Trademark Collateral as the Collateral Agent may reasonably request, all in reasonable detail.

**5.4 Additional Ownership Interests.** Borrower agrees that, should it obtain an ownership interest in any Trademark or Trademark License Rights, which is not now identified in Schedule I, (i) Borrower will give prompt written notice thereof to the Collateral Agent, (ii) the provisions of Section 2 shall automatically apply to any such Trademarks and/or Trademark License Rights (exclusive of any Intent to Use Applications), and (iii) all such Trademarks and/or Trademark License Rights (exclusive of any Intent to Use Applications), together with the goodwill of the business connected with the use of any marks and symbolized by any marks, shall automatically become part of the Trademark Collateral. Borrower authorizes the Collateral Agent to modify this Agreement by amending Schedule I to include any of the Trademarks or Trademark License Rights, which become part of the Trademark Collateral under this Section 5.4. Notwithstanding anything to the contrary set forth herein, Borrower shall not be required to comply with clause (i) of this Section 5.4 with respect to any Trademark License Rights constituting Franchise Agreements that are not now identified in Schedule I; *provided* that the foregoing shall not in any manner affect, impair, or otherwise extinguish the other provisions of this Section 5.4 (i.e. other than clause (i) hereof), all of which provisions shall continue in full force and effect with respect to all such Franchise Agreements.

**5.5 Maintenance of Rights.** Borrower will take all necessary steps in any proceeding before the United States Patent and Trademark Office (or any similar office or agency in any other country or any political subdivision of that country) or in any court to maintain each registered Trademark (unless Borrower has decided to abandon such Trademark in compliance with the requirements of this Section 5.5), and to pursue each material item of Trademark Collateral, including the filing of applications for renewal, the payment of maintenance fees, and the participation in opposition, interference and infringement proceedings. Any expenses incurred in connection with such activities shall be borne by Borrower. Borrower shall not abandon (i) any registration of or any material item of Trademark Collateral, or (ii) any right to file an application for trademark or service mark registration, or any pending application, registration, trademark or service mark, unless in each case the goodwill of the business connected with and symbolized by such application, registration, trademark or service mark is not necessary in the conduct of Borrower's business.

**5.6 Notification.** Borrower will notify the Collateral Agent immediately and in writing if Borrower learns (i) that any material item of the Trademark Collateral may become abandoned or dedicated; (ii) of any adverse determination or any development (including the institution of any proceeding in the United States Patent and Trademark Office or any court) regarding any material item of the Trademark Collateral; or (iii) that it is or potentially could be in default of any of the Trademark License Rights.

**5.7 Infringement.** If Borrower becomes aware that any material item of the Trademark Collateral is infringed or misappropriated by any Person, Borrower will promptly notify the Collateral Agent and will, if necessary under the circumstances, promptly sue for infringement or misappropriation and for recovery of all damages caused by such infringement or misappropriation, and will take such other actions as Borrower deems appropriate under the circumstances to protect the Trademark Collateral. Any expense incurred in connection with the foregoing activities shall be borne by Borrower.

**5.8 Statutory Notice.** Borrower will continue to use, and will cause the use of, reasonable and proper statutory notice in connection with its or its Franchisees' (as defined in the Credit Agreement) use of each registered Trademark.

**6. TRANSFERS AND OTHER LIENS.** Borrower shall not:

(i) sell, assign (by operation of law or otherwise) or otherwise dispose of any of the Trademark Collateral except (a) as expressly permitted by the Credit Agreement and the Note Purchase Agreement and (b) that Borrower may license any Trademark Collateral in accordance with, and subject to the terms of, this Agreement;

(ii) create or suffer to exist any Lien or other charge or encumbrance upon or with respect to any of the Trademark Collateral except any Permitted Liens; or

(iii) take any other action in connection with any of the material items of Trademark Collateral that would impair the value of the interests or rights thereunder of Borrower or the Collateral Agent.

**7. POWER OF ATTORNEY.** Borrower hereby irrevocably appoints the Collateral Agent as Borrower's true and lawful attorney-in-fact, with full authority in Borrower's place, stead and on behalf of Borrower and in Borrower's name or otherwise, from time to time in the Collateral Agent's sole and absolute discretion, to take any action and to execute any instrument that the Collateral Agent may deem necessary or advisable on and after the occurrence of an Event of Default and during the continuance thereof to accomplish the purposes of this Agreement, including:

(i) to ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Trademark Collateral;

(ii) to receive, indorse, and collect any drafts or other instruments, documents and chattel paper in connection with clause (i) of this Section 7; and



(iii) (a) to file any claims or take any action or institute any proceedings that the Collateral Agent may deem necessary or desirable for the collection of any of the Trademark Collateral, (b) to assign of record in the United States Patent and Trademark Office (and each other applicable Governmental Authority) any and all of the Trademark Collateral in the Collateral Agent's name (or the name of any nominee), or (c) otherwise to enforce the rights of the Collateral Agent with respect to any of the Trademark Collateral.

**8. THE COLLATERAL AGENT MAY PERFORM.**

**8.1 Performance by the Collateral Agent.** If Borrower fails to perform any of its obligations contained herein within 25 days after written notice to Borrower from the Collateral Agent, the Collateral Agent (solely at its option without any obligation to do so) may itself perform, or cause performance of, such obligations, and the expenses of the Collateral Agent incurred in connection therewith shall be payable by Borrower under Section 12.5 of the Credit Agreement.

**8.2 The Collateral Agent May Bring Suit.** On, and at any time after, the occurrence of an Event of Default and during the continuance thereof, the Collateral Agent will have the right, but in no way will be obligated, to bring suit in its own name or in the name of Borrower to enforce any part of the Trademark Collateral. Borrower will, at the reasonable request of the Collateral Agent, do any and all lawful acts and sign any and all proper documents required by the Collateral Agent in aid of the Collateral Agent's enforcement actions. On the Collateral Agent's demand, Borrower will promptly reimburse and indemnify the Collateral Agent for all costs and expenses incurred by the Collateral Agent in the exercise of its rights under this Section 8.

**9. THE COLLATERAL AGENT'S DUTIES.** The powers conferred on the Collateral Agent hereunder are solely to protect its interest in the Trademark Collateral and shall not impose any duty upon the Collateral Agent to exercise any such powers. Except for the safe custody of any Trademark Collateral in its possession and the accounting for moneys actually received by it under this Agreement, the Collateral Agent shall have no duty as to any of the Trademark Collateral or as to the taking of any necessary steps to preserve rights against other parties or any other rights pertaining to any Trademark Collateral. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Trademark Collateral in its possession if the Trademark Collateral is accorded treatment substantially equal to that which the Collateral Agent accords its own intellectual property.

**10. REMEDIES.** If any Event of Default occurs and is continuing:

(i) The Collateral Agent may exercise in respect of the Trademark Collateral, in addition to other rights and remedies provided for herein or otherwise available to the Collateral Agent, all the rights and remedies of a secured party on default under the UCC (whether or not the UCC applies to the affected Trademark Collateral) and also may do any one or more of the following at the Collateral Agent's option: (a) cause the assignment of record in the United States Patent and Trademark Office (and each other applicable Governmental Authority) of the Trademark Collateral in the Collateral Agent's name (on behalf of the Lenders) or in the name of any nominee of Collateral Agent; (b) exercise any and all rights and remedies of Borrower under or otherwise in

respect of either the Trademark Collateral; (c) license the Trademark Collateral or any part thereof, or assign its rights to the Trademark License Rights to any Person; and (d) with 10 days advance notice (unless no notice is required under applicable law), sell the Trademark Collateral or any part thereof in one or more parcels at public or private sale, at any of the Collateral Agent's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Collateral Agent may deem commercially reasonable. In the event of any sale, assignment, or other disposition of any of the Trademark Collateral, (1) the goodwill of the business connected with and symbolized by any Trademark Collateral subject to such disposition shall be included, and (2) Borrower will supply to the Collateral Agent or its designee Borrower's (A) know-how and expertise relating to the manufacture and sale of products or the provision of services relating to any Trademark Collateral subject to such disposition and (B) customer lists and other records relating to such Trademark Collateral and to the distribution of such products and services. Borrower agrees that, to the extent notice of sale shall be required by law, at least 10 days' notice to Borrower of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of any Trademark Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(ii) All payments received by Borrower under or in connection with any of the Trademark Collateral shall be received in trust for the benefit of the Collateral Agent (on behalf of the Secured Creditors), shall be segregated from other funds of Borrower and shall be forthwith paid over to the Collateral Agent in the same form as so received (with any necessary indorsements).

(iii) All payments made hereunder or in connection with or otherwise in respect of the Trademark Collateral and all cash proceeds received by the Collateral Agent in respect of any sale of, collection from, or other realization upon all or any part of the Trademark Collateral may, in the discretion of the Collateral Agent, be held by the Collateral Agent as collateral for, and/or then or at any time thereafter applied in whole or in part by the Collateral Agent against, all or any part of the Secured Obligations, in such order in accordance with the Intercreditor Agreement. Any surplus of such cash or cash proceeds held by the Collateral Agent and remaining after the indefeasible payment in full of all the Secured Obligations shall be paid over to Borrower or to whomsoever may be lawfully entitled to receive such surplus.

**11. AMENDMENTS; WAIVERS; CONSENTS.** No amendment or waiver of any provision of this Agreement nor consent to any departure by Borrower from the terms of this Agreement shall in any event be effective unless such amendment or waiver shall be in writing and signed by the Collateral Agent, and then such amendment or waiver shall be effective only in the specific instance and for the specific purpose for which it was given.

**12. NOTICES.** Any notice or notification required, permitted or contemplated hereunder shall be in writing, shall be addressed and given to the party to be notified at the address set forth in, and in the manner required by, Section 12.2 of the Credit Agreement, and paragraph 11J of the Note Purchase Agreement.

### **13. GENERAL.**

**13.1 Continuing Rights.** This Agreement shall create a continuing Lien on, and collateral assignment of, Trademark Collateral in favor of Collateral Agent (for the benefit of the Secured Creditors) and shall (i) remain in full force and effect until the termination of this Agreement in accordance with its terms, (ii) be binding upon Borrower, its successors and assigns, and (iii) inure, together with the rights and remedies of the Collateral Agent hereunder, to the benefit of each Secured Creditor and each Secured Creditor's successors, transferees and assigns.

**13.2 Termination.** Subject to Section 13.10 below, this Agreement will terminate on the latest to occur of (i) the full and indefeasible performance, payment and satisfaction of all the Secured Obligations, (ii) the termination of the Credit Agreement, and (iii) the termination of the Note Purchase Agreement, at which time the Liens granted hereby shall terminate and all rights to the Trademark Collateral shall revert to Borrower. Upon any such termination, the Collateral Agent will, at Borrower's expense, execute and deliver to Borrower such documents as Borrower reasonably requests to evidence such termination, including, without limitation, releases of the Liens on, and collateral assignments of, the Trademark Collateral granted hereunder.

**13.3 Severability.** If any term or provision of this Agreement is or shall become illegal, invalid or unenforceable in any jurisdiction, all other terms and provisions of this Agreement shall remain legal, valid and enforceable in such jurisdiction and such illegal, invalid or unenforceable provision shall be legal, valid and enforceable in any other jurisdiction.

**13.4 Governing Law.** This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Ohio (without regard to Ohio conflicts of laws principles), except to the extent that the validity or perfection of the Liens or the remedies hereunder, in respect of any particular Trademark Collateral are governed by the law of the United States or any other jurisdiction other than the State of Ohio.

**13.5 WAIVER OF JURISDICTION.** The Collateral Agent (on behalf of itself and the other Secured Creditors) and Borrower hereby designate all courts of record sitting in Cincinnati, Ohio, both state and federal, as forums where any action, suit or proceeding in respect of or arising out of this Agreement or the transactions contemplated by this Agreement may be prosecuted as to all parties, their successors and assigns, and by the foregoing designations the Collateral Agent (on behalf of itself and the other Secured Creditors) and Borrower consent to the jurisdiction and venue of such courts. BORROWER WAIVES ANY AND ALL PERSONAL RIGHTS UNDER THE LAWS OF ANY OTHER STATE TO OBJECT TO JURISDICTION WITHIN THE STATE OF OHIO FOR THE PURPOSES OF LITIGATION TO ENFORCE SUCH SECURED OBLIGATIONS OF BORROWER. In the event such litigation is commenced, Borrower agrees that service of process may be made and personal jurisdiction over Borrower obtained by service of a copy of the summons, complaint and other pleadings required to commence such litigation upon Borrower at the address set forth in the Credit Agreement and the Note Purchase Agreement. Borrower recognizes and agrees that (a) the agency for receipt of notices set forth in the Credit Agreement and the Note Purchase Agreement has been created for the benefit of Borrower and (b) shall not be revoked, withdrawn or modified without the consent of the Collateral Agent.

**13.6 Headings.** The headings in this Agreement are for reference purposes only and will not relate to, or affect in any way, the construction or interpretation of this Agreement.

**13.7 Survival.** The representations, warranties, covenants and agreements contained in this Agreement or in any Schedule attached hereto shall survive the signing of this Agreement.

**13.8 Entire Agreement.** This Agreement, together with the other Loan Documents and other Transaction Documents, as applicable, sets forth the entire agreement of the parties with respect to subject matter of this Agreement and supersede all previous understandings, written or oral, in respect thereof.

**13.9 Assignment.** The Collateral Agent, subject to the terms of the Intercreditor Agreement and this Agreement, shall have the right to assign this Agreement. Borrower may not assign, transfer or otherwise dispose of any of its rights or obligations hereunder, by operation of law or otherwise, and any such assignment, transfer or other disposition without the Collateral Agent's written consent shall be void. All of the rights, privileges, remedies and options given to the Collateral Agent (for the benefit of Secured Creditors) under this Agreement shall inure to the benefit of each Secured Creditor's successors and assigns, respectively, and all the terms, conditions, covenants, provisions and warranties herein shall inure to the benefit of and bind the permitted successors and assigns of Borrower and each Secured Creditor, respectively.

**13.10 Revival of Obligations.** To the extent Borrower makes a payment or payments to any Secured Creditor or any Secured Creditor receives any payment or proceeds of the Trademark Collateral or any other collateral or security for Borrower's benefit, which payment(s) or proceeds or any part thereof are subsequently voided, invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy act, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Secured Obligations or part thereof intended to be satisfied shall be revived and shall continue in full force and effect, as if such payment or proceeds had not been received by the affected Secured Creditor.

**13.11 The Collateral Agent.** Collateral Agent's Additional Rights Regarding the Collateral. All of the Secured Obligations shall be secured by all of the Collateral. In addition to all other rights and remedies under the other Loan Documents and the other Transaction Documents, Collateral Agent may, in its discretion, following the occurrence of a Default: (i) exchange, enforce, waive or release, any of the Collateral or portion thereof, (ii) apply the proceeds of the Collateral against the Secured Obligations (in accordance with the terms of the Intercreditor Agreement) and direct the order or manner of the liquidation thereof (including any sale or other disposition), as Collateral Agent may, from time to time, in each instance determine, and (iii) settle, compromise, collect or otherwise liquidate any such security in any manner without affecting or impairing its right to take any other further action with respect to any security or any part thereof.

**13.12 Concerning the Collateral Agent.** The rights, privileges and immunities of the Collateral Agent set forth in the Intercreditor Agreement (collectively, the "Incorporated Provisions") are hereby incorporated by reference and made a part of this Agreement to the same extent as if the Incorporated Provisions were set forth herein. Notwithstanding anything to the

contrary in this section, neither Borrower nor any successor or assignee of Borrower, by operation of law or otherwise, is a party to the Intercreditor Agreement, and Borrower will not have (a) any right in or to enforcement of the Intercreditor Agreement as against any Secured Creditor, (b) any claim of damage if any Secured Creditor defaults under the Intercreditor Agreement, or (c) any right to object or consent to any amendment, modification, or supplement to, or any restatement or replacement of, the Intercreditor Agreement undertaken by the Secured Creditors. Without limiting the generality of the foregoing:

(i) As between Borrower and Collateral Agent, Collateral Agent shall be conclusively presumed to be acting as agent for the Secured Creditors with full and valid authority so to act or refrain from acting; and

(ii) By accepting the benefits of this Agreement, each Secured Creditor specifically acknowledges and agrees that, as between Collateral Agent and the other Secured Creditors:

(a) Collateral Agent will hold all items of the Trademark Collateral at any time received under this Agreement in accordance with the terms of this Agreement and the Intercreditor Agreement, and the obligations of Collateral Agent as holder of the Trademark Collateral and any interests therein and with respect to any disposition of any of the Trademark Collateral or any interests therein are only those obligations expressly set forth in this Agreement and the Intercreditor Agreement; and

(b) this Agreement may be enforced only by the action of Collateral Agent and that no Secured Creditor other than Collateral Agent shall have any right individually to seek to enforce or to enforce this Agreement, it being understood and agreed that such rights and remedies may be exercised by Collateral Agent, for the benefit of Secured Creditors, upon the terms of this Agreement, the Intercreditor Agreement, and the other Loan Documents and other Transaction Documents, as applicable.

**13.13 Conflict.** If there is any conflict, ambiguity, or inconsistency, in the Collateral Agent's judgment, between the terms of this Agreement, the Credit Agreement, the Note Purchase Agreement or any of the other Loan Documents or other Transaction Documents, as applicable, then the applicable terms and provisions, in the Collateral Agent's judgment, providing the Collateral Agent (or, as applicable, the Secured Creditors) with greater rights, remedies, powers, privileges, or benefits will control.

**13.14 WAIVER OF JURY TRIAL.** AS A SPECIFICALLY BARGAINED INDUCEMENT FOR THE SECURED CREDITORS TO EXTEND CREDIT TO BORROWER, AND AFTER HAVING THE OPPORTUNITY TO CONSULT COUNSEL, BORROWER HEREBY EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO THIS AGREEMENT OR ARISING IN ANY WAY FROM THE SECURED OBLIGATIONS.

**13.15 Counterparts.** This Agreement may be executed in any number of counterparts, but all of such counterparts shall together constitute but one agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one counterpart hereof

signed by each of the parties hereto. Delivery of this Agreement by, or on behalf of, Borrower by fax transmission or by electronic mail in portable document format ("pdf") (i) may be relied on by the Secured Creditors as if the document were a manually signed original and (ii) will be binding on Borrower for all purposes.

**13.16 Intercreditor Agreement.** Notwithstanding anything to the contrary in this Agreement, the rights and remedies of Collateral Agent set forth in, or pursuant to, this Agreement are subject to the terms and conditions of the Intercreditor Agreement.

*[Signature Page Follows]*

IN WITNESS WHEREOF, Borrower has, by its duly authorized officer, signed this Agreement as of the Effective Date.

**SKYLINE CHILI, INC.**

By: *Kevin R. McDonnell*  
Kevin R. McDonnell, President and  
Chief Executive Officer

STATE OF OHIO,  
COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of November, 2010, by Kevin R. McDonnell, the President and Chief Executive Officer of Skyline Chili, Inc., an Ohio corporation, on behalf of such corporation.

*Terry E. Moore*  
Notary Public

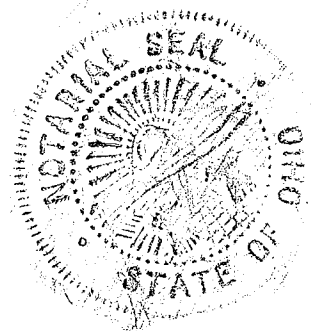
My commission expires: \_\_\_\_\_

Accepted at Cincinnati, Ohio  
as of the Effective Date.

**FIFTH THIRD BANK**, as Collateral Agent

By: \_\_\_\_\_  
William R. Keehn, Vice President

TERRY E. MOORE, Attorney at Law  
NOTARY PUBLIC, STATE OF OHIO  
My commission has no expiration  
date. Section 147.03 O.R.C.



IN WITNESS WHEREOF, Borrower has, by its duly authorized officer, signed this Agreement as of the Effective Date.

**SKYLINE CHILI, INC.**

By: \_\_\_\_\_  
Kevin R. McDonnell, President and  
Chief Executive Officer

STATE OF OHIO,  
COUNTY OF \_\_\_\_\_, SS:

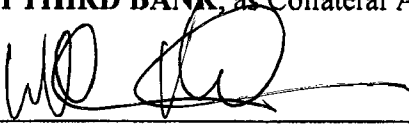
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of November, 2010, by Kevin R. McDonnell, the President and Chief Executive Officer of Skyline Chili, Inc., an Ohio corporation, on behalf of such corporation.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Accepted at Cincinnati, Ohio  
as of the Effective Date.




**FIFTH THIRD BANK**, as Collateral Agent

By:  \_\_\_\_\_  
William R. Keehn, Vice President



# SCHEDULE I

(Trademark Collateral)

Trademark/Service Mark	U.S. Registration/Application No.
SKYLINE	1,221,066
SKYLINE CHILI	1,293,403
SKYLINE CHILI & Design 	1,362,692
FOOTLONG EXPRESS	2,161,133
SKYLINE CHILI EST. 1949 & Design 	2,197,258
SKYLINE CHILI	2,197,268
SKYLINE CHILI	2,365,353
SKYLINE CHILI EST. 1949 & Design 	2,460,522
IT'S SKYLINE TIME	2,461,768
FEELING GOOD AND HUNGRY? IT'S SKYLINE TIME.	2,461,787
FRESH SELECTS	2,911,840
FOOTLONG EXPRESS	2,939,541
SKYLINE CHILI	2,959,263
EXTREME WAY	2,969,659
EXTREME CONEY	2,987,070
WALKING 3 WAY	85/013,374